

Law of Duty

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1. While subject's excellent record is irrelevant re question of entitlement to POV shipment, it may reflect as great an interest on the part of EUR in having her back at Headquarters as staying on at her overseas post. (This could be true although the fact that her return is being precipitated by her for personal reasons.)

2. This is the kind of case which I hope we may get a better handle on after the new regs are published, although I must admit to no tidy solution for this problem under the new regulations, which place principal emphasis on allowing or not allowing travel at Government expense according to the sufficiency of Government's interest in cases of return due to personal reasons. Although we have not settled on definitive internal guidelines for making D/Pers determinations in individual cases of early returns, I have suggested that one possible exception for waiving an employee's liability might be when an individual returns to the United States to accompany a spouse who is the principal and who is being reassigned in CIA or another government agency. The logic, I suppose, of these thoughts is that we should support EUR's position concerning the POV authorization providing, of course, they are happy to have her back.

3. I think we should support her request that she not be required to reimburse the Agency for travel expenses incurred in returning to after home leave. (over)

While the new regulation would put an end to the "continuous service" doctrine permitting the waiver (established by a number of OGC opinions) we're caught up in the hiatus between a new regulation not yet on the books and the current regulatory provisions as interpreted by OGC. It would be inappropriate to apply a prospective regulation not yet authorized which has a punitive effect.

4. There are things about this case that I don't like, but this is a gratuitous comment which should not influence the decision on how to handle this case under present regulations.